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SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-eighth session

SUMMARY RECORD OF THE 20th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 20 August 1996, at 10 a.m.

Chairman: Mr. EIDE

CONTENTS

REVIEW OF FURTHER DEVELOPMENTS IN FIELDS WITH WHICH THE SUB-COMMISSION HAS BEEN CONCERNED (continued)

THE NEW INTERNATIONAL ECONOMIC ORDER AND THE PROMOTION OF HUMAN RIGHTS:

(a) THE ROLE AND EQUAL PARTICIPATION OF WOMEN IN DEVELOPMENT (continued)

THE IMPLEMENTATION OF THE HUMAN RIGHTS OF WOMEN (continued)

CONSIDERATION OF DRAFT RESOLUTIONS AND DECISIONS UNDER AGENDA ITEM 6 (continued)

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GE.96-13542 (E)

The meeting was called to order at 10.25 a.m.

REVIEW OF FURTHER DEVELOPMENTS IN FIELDS WITH WHICH THE SUB-COMMISSION HAS BEEN CONCERNED (agenda item 4) (continued) (E/CN.4/1996/3, E/CN.4/Sub.2/1996/4, E/CN.4/Sub.2/1996/6, E/CN.4/Sub.2/1996/7, E/CN.4/1996/44)

1. Ms. NASIR (Pax Christi International) said that, in his excellent working paper on the establishment of a democratic society (E/CN.4/Sub.2/1996/7), Mr. El-Hajjé rightly stated that a dominant position of the army in making and implementing decisions was one of the obstacles to the exercise of democracy. Current events provided convincing illustrations of that statement.

2. In Indonesia, for example, the army had recently organized illegally a congress of the Indonesian Democratic Party in order to oust the Party President, Mrs. Megawati Sukarnoputri. By taking that "preventive" action, the army had hoped to avoid having to resort to violence in opposing the results of the vote, as had been done in Burma, Haiti and Nigeria. Furthermore, on 27 July 1996, there had been a bloody incident in which the army had enacted reprisals on young activists guarding the Party headquarters. The army had also recently appointed the head of the Batak Protestant Church in Sumatra.

3. Armies did not always limit themselves to defending the national territory; sometimes they did not hesitate to occupy other countries - for example, Cyprus, East Timor and Lebanon.

4. Resistance to all military dictatorship was a civic duty, as Mrs. Suu Kyi and President Aristide had shown. The army must serve the nation and protect democracy. International pressure was needed to save the oppressed from having to resort to violence.

5. Mr. HADJAR (Movement against Racism and Anti-Semitism and for Peace - MRAP) congratulated Mr. El-Hajjé on the quality of his working paper on the establishment of a democratic society. In Burma, democracy had now been held hostage for over 30 years by a military junta that had driven the country to ruin, violated human rights in general and those of minorities in particular, wiped out the pro-democratic revolt of August 1989 and arrogantly ignored the results of the May 1990 elections. That country, which so many people and books described as an earthly paradise, was actually experiencing a daily hell. MRAP urged the military junta to recognize the results of the 1990 elections and begin a real dialogue with the representatives who had been democratically chosen by the ethnic minorities.

6. Last, he expressed his solidarity with all the peoples suffering from army abuses, particularly the Indonesian people, and gave his unconditional support to Mr. El-Hajjé's suggestion regarding the creation of a post of special rapporteur on the establishment of a democratic society in which the military would always be subject to the civilian authorities.

THE NEW INTERNATIONAL ECONOMIC ORDER AND THE PROMOTION OF HUMAN RIGHTS:

(a) THE ROLE AND EQUAL PARTICIPATION OF WOMEN IN DEVELOPMENT (agenda item 7) (continued)

THE IMPLEMENTATION OF THE HUMAN RIGHTS OF WOMEN (agenda item 11) (continued) (E/CN.4/Sub.2/1996/20; E/CN.4/Sub.2/1996/NGO/18; E/CN.4/1996/53 and Add. 1 and 2; E/CN.6/1996/9; E/CN.6/1996/13)

7. Mr. ZHONG Shukong said that, in the light of the Vienna Declaration and, in particular, paragraph 14 thereof, the Sub-Commission should pay more attention to a closer integration of the protection of human rights with the promotion of economic and social development in general and poverty eradication in particular. In that regard, he noted that the total number of people living in poverty had risen from 1.2 billion in 1991 to 1.5 billion in 1995 and that 90 per cent of those people lived in developing countries. Poverty threatened or inhibited the effective enjoyment of all human rights, whether economic, social, cultural or political.

8. Historically, many countries had been reduced to colonies or semi-colonies. Their people had been subjected to cultural oppression and ruthless economic exploitation, their resources pillaged and their economies destroyed. After gaining independence, those countries had suffered from five major handicaps: lack of an industrial base and dependence on primary commodities for the bulk of their export earnings; lack of infrastructures, including roads and railways; lack of adequately educated or trained human resources; lack of competence in the fields of science and technology; and lack of financial resources. For example, China had been reduced to a semi-colony until the end of the 1940s and had lacked the technical capability and even the "permission" to manufacture certain daily necessities, while three quarters of the population was living in poverty. The looting of its lumber and timber had resulted in unprecedented deforestation with disastrous effects that continued to persist.

9. Furthermore, rather than alleviating the poverty that was the legacy of colonialism, the existing international economic order, which was profoundly unjust, was aggravating it. The terms of trade were continuing to worsen at the expense of developing countries. The developed countries were restricting the access of third world products to their markets, particularly by imposing "social" and "environmental" standards. Moreover, commercial "sanctions" were being unilaterally imposed in violation of international law and World Trade Organization (WTO) regulations. The Group of 77 and some Western countries had criticized such practices. To all those problems was added the worsening debt burden. For example, Africa's debt had amounted to $322 billion in 1995, representing 70 per cent of its total gross domestic product (GDP) and 250 per cent of its export earnings. Under those circumstances, it was difficult to implement a policy of socio-economic development and to combat poverty. The various plans for debt rescheduling were clearly unable to remedy the situation.

10. At the national level, the problem required effective socio-economic development in the light of country-specific conditions, including the promotion of the self-reliant development of poverty-stricken areas. At the

international level, it required removal of the previously mentioned factors that worsened poverty, assistance to developing countries combating that scourge, and establishment of a just and equitable new international economic order in accordance with the Declaration adopted by the United Nations General Assembly over 20 years previously.

11. The international community must not take a narrow view of political rights, for the survival of millions of people suffering from hunger was at stake. In particular, the Sub-Commission should act without delay at a time when the United Nations had just designated 1997-2006 as the "International Decade for Poverty Eradication". The Sub-Commission should: (i) invite all developed countries, international and regional financial institutions and United Nations bodies and agencies to make a real contribution to the success of the Decade for the Eradication of Poverty; (ii) urge the developed countries to do more to reduce the debt burden of the developing and, in particular, the least developed countries; (iii) call for the immediate lifting of unfair restrictions on developing countries' access to markets; (iv) call for the lifting of discriminatory and unilaterally imposed trade-related sanctions; (v) urge the developed countries to honour their commitments, including those made at the Earth Summit in 1992, with regard to the provision of new financial resources and the transfer of technology and to implement "Agenda 21" with a view to attaining global sustainable development; and (vi) place poverty eradication high on its agenda, thereby helping to ensure respect for the fundamental human rights of the 1.5 billion people who were suffering from poverty. By acceding to those requests, the developed countries would not only be meeting their international obligations but would also be making an investment in the future of mankind.

12. Mr. LINDGREN ALVES said his participation in the Fourth World Conference on Women had been a most educational experience since it had permitted him to fully grasp the fundamental importance of some questions raised by women throughout the world. However, even without having personally attended the Beijing Conference, it was easy to understand the power implications of gender-based discrimination. As stated in document E/CN.6/1996/9, the Committee on the Rights of the Child was the only treaty body to have incorporated gender issues into its programme since its first meeting; the Convention on the Rights of the Child was the only convention that avoided gender-inclusive language by employing both the male and female pronouns and some of its articles had particular relevance for the girl-child. He therefore welcomed the efforts currently being made to ensure inclusion of the rights of women into all United Nations programmes and, in particular, the work of all the treaty bodies.

13. As the Special Rapporteur on violence against women had pointed out in a previous report, the specific rights of women had opened new possibilities for the treatment of human rights at the national and international levels. Those rights had led to the realization that human rights violations were often not perpetrated by the State, although it was the State's responsibility to combat those violations and protect those rights. In her final report on traditional practices affecting the health of women and children (E/CN.4/Sub.2/1996/6), Ms. Warzazi gave numerous examples of States which had acknowledged the

incidence of such practices in their societies and taken major steps to combat them. He congratulated Ms. Warzazi on her contribution to the fight against those harmful practices, which no cultural tradition could justify.

14. The mention of cultural traditions raised the question of other aspects of the situation of women. He was pleased that the Division for the Advancement of Women was supplying the Centre for Human Rights with input from a gender perspective for possible inclusion in the work related to the preparation of the draft declaration on the rights of indigenous peoples. The absence of a specific reference to the human rights of indigenous women had been one of the reasons that, in 1994, he had raised doubts concerning the advisability of sending that draft to the Commission. Those same cultural traditions were doubtless the excuse made by so many Governments which had formulated reservations to the Convention on the Elimination of All Forms of Discrimination against Women. It was very disappointing that 45 countries from all regions, including 10 from Latin America and the Caribbean and 13 from the Western Group, maintained their reservations to that Convention, which, according to the Secretary-General's note (E/CN.4/Sub.2/1996/20), "has been subject to more substantive reservations than probably any other major human rights treaty". It was no surprise, then, that women had focused at Beijing on the struggle against gender discrimination. In the current climate of fundamentalism and intolerance, it was the Sub-Commission's duty to pay particular attention to the rights and advancement of women.

15. Ms. WARZAZI said that the Declaration and Platform for Action adopted by the Fourth World Conference on Women at Beijing largely reflected the concerns and problems of women throughout the world. The spirit of dialogue had made it possible to overcome difficulties associated with incomprehension and a lack of will and to meet halfway those who represented ways of life and thought that differed from those of Western societies. Thus, the Conference had made it possible to build a bridge between those two worlds and to transcend national, historical, cultural and religious characteristics to affirm that women's rights were an integral part of the fundamental human rights of the individual. It was therefore incumbent on Governments to put an end to all discrimination and to ensure women equal participation in decision-making processes in all fields.

16. There were, however, some negative aspects of the picture. For example, the French version of the report of the Secretary-General entitled "Extent to which violations of women's human rights have been addressed by human rights mechanisms" (E/CN.6/1996/9) stated that the Fourth World Conference on Women had reaffirmed in the Beijing Declaration and Platform for Action that "les droits des femmes devaient être rangés parmi les droits fondamentaux" (the rights of women should be included among the fundamental human rights), whereas what the Conference had actually reaffirmed, on the basis of the Preamble and Article 1 of the Charter of the United Nations, was that women's rights were human rights and that human rights must be respected without distinction as to sex. It was, therefore, a question of ensuring the equality of men and women with regard to the rights of the human person.

17. The report stated that, although the human rights treaty bodies were making increasing efforts to mainstream the question of the rights of women into their activities, "not all [of them] have [done so] as well as they

might". Furthermore, paragraph 20 of the French version stated that "Le Centre a ... organisé en 1995 ... une réunion d'experts chargés de mettre au point des directives qui amènent à intégrer la question de la situation spécifique des femmes dans les travaux des Nations Unies concernant les droits de l'homme" (In 1995, the Centre ... organized an expert group meeting to develop guidelines to incorporate the question of the specific situation of women into the work of the United Nations on human rights). She wondered how t' situation of women was specific in comparison with that of other human beings. She was also surprised at the statement in paragraph 24 of the French version that the Convention on the Elimination of All Forms of Discrimination against Women "reste peu familière aux organes des Nations Unies" (is still unfamiliar to United Nations bodies) since it was included in the Compilation of International Instruments. Although the Convention identified all the problems that affected women, it was nevertheless an instrument based on the International Covenants on Human Rights. If the Convention was still unfamiliar to United Nations bodies, it was not surprising that it was also unknown to the officials in the various administrative structures of the system and that women employees of the Organization were being discriminated against in matters of recruitment and promotion.

18. Since the principle of the equal rights of men and women was affirmed in various instruments, including the Convention, she did not see why paragraph 30 of the French version of the report suggested that non-treaty human rights mechanisms should undertake "d'analyser leur mandat du point de vue de la protection des droits spécifiques des femmes" (to analyse their mandates from the point of view of protection of the specific rights of women). She wondered what specific rights were meant and whether the experts would intervene only in cases of violation of those specific rights, ignoring attacks on the fundamental human rights. In order for the demarginalization of women with regard to human rights to become a reality, that demarginalization must be clearly understood by all. In that regard, she suggested that the functions of the Committee on the Elimination of Discrimination against Women and the Commission on the Status of Women should henceforth be assumed by the Centre for Human Rights in Geneva. She also stressed the fact that, while it was desirable for women to be recruited to carry out technical assistance projects in certain countries, it was also desirable for the women selected to be from those countries and thus familiar with the real situation there.

19. Although the Commission on the Status of Women was in the process of preparing an optional protocol to the Convention on the Elimination of All Forms of Discrimination against Women in order to set up a mechanism for the submission and consideration of individual or group complaints, it would be equitable to allow women to avail themselves of the procedure established by Economic and Social Council resolution 1503 (XLVIII) to bring violations of which they were the victims to the Sub-Commission's attention. The adoption of such a measure would be very useful in ensuring the enjoyment and exercise of all the fundamental human rights by women.

20. Ms. McDOUGALL said that the vital recognition of women's rights as fundamental human rights had been reinforced at the Fourth World Conference on Women in Beijing, the Conference on Population and Development in Cairo and the Summit for Social Development in Copenhagen. Those Conferences had

focused on the need for the systematic integration of the equality of the sexes and the rights of women into the United Nations human rights agenda. The Sub-Commission, at its forty-sixth session, had decided to consider the human rights of women and the girl-child under every item of its agenda. It had already appointed a Special Rapporteur on traditional practices affecting the health of women and children and a Special Rapporteur on the situation of systematic rape, sexual slavery and slavery-like practices during wartime, including, in particular, internal armed conflict. The Working Group on Contemporary Forms of Slavery had also regularly addressed gender-specific aspects of contemporary forms of slavery. Yet in his report entitled "Extent to which violations of women's human rights have been addressed by human rights mechanisms" (E/CN.6/1996/9), the Secretary-General had noted that "with isolated exceptions, the approach has been to add women to the existing framework, not to modify the existing framework to take account of the gender dimensions of human rights ... Mainstreaming the human rights of women within the United Nations human rights programme thus faces the challenge of how to move those rights from the agenda of the programme into the work of the programme". The Sub-Commission should therefore give comprehensive consideration to the implications of integrating gender into its work. The collection and gender-disaggregation of data from individual countries or various geographic regions was, of course, an essential first step. However, once the existence of violations directly affecting women had been demonstrated, it was important to analyse the causes and effects of those violations and potential remedies for redressing and preventing future abuse. The Sub-Commission should then examine how gender affected all the various forms of abuse to which women were subjected, the consequences of those abuses and the availability and accessibility of remedies.

21. She suggested that, under each agenda item, the Sub-Commission should consider the implications of particular issues for the rights of women by making reference to relevant statistical data or patterns of violations attributable to both State and non-State actors; elaborate the specific international standards that might be implicated by that data, taking note of any gaps in international mechanisms for the protection of human rights; recommend remedies to compensate the victims of past violations and meaningful protections to prevent future abuses; and discuss long-term strategies to prevent such abuses, including strategies for alleviating social, economic or cultural conditions that might encourage them.

22. The Beijing Platform for Action provided concrete examples and a detailed analysis of the barriers that women faced in all areas of public and private life and the steps that Governments could take to remove those barriers. The Sub-Commission should also include in its work consideration of those barriers and reflect, in particular, on the relationship between race and gender, the gender-specific causes and consequences of poverty, women's participation in development and the consequences thereof, and the impunity enjoyed by human rights violators, particularly in cases of rape and sexual violence.

23. As the Sub-Commission considered how to strengthen its own work, it had also begun to consider how that work could strengthen the efforts of other United Nations human rights bodies and mechanisms. In its resolution 1995/26, the Sub-Commission had requested the Secretary-General to "obtain the views of

the Committee on the Elimination of Discrimination against Women and the Commission on the Status of Women on the question whether it would be desirable to have an advisory opinion on the value and legal effect of reservations concerning the Convention on the Elimination of All Forms of Discrimination against Women". It was clear that efforts to strengthen the implementation of that Convention would play a central role in the overall work of the United Nations for the promotion and protection of women's human rights, and the number and scope of reservations to that Convention were unfortunate. However, in reviewing the report of the Secretary-General, and in view of the concerns expressed by the Committee on the Elimination of Discrimination against Women and the Commission on the Status of Women, it did not seem to be the right time to refer the question for an advisory opinion. Rather, the Committee should be supported in its efforts to develop its own analysis of the negative impact of those reservations, and its capacities should be strengthened in various ways. The efforts of the Commission on the Status of Women to develop an optional protocol establishing a complaint and inquiry procedure under the Convention should also be supported. The Committee would then be in a better position to take concrete steps to address reservations to the Convention and to work with the States parties concerned in an effort to induce them to limit or withdraw those reservations. As a key player in the United Nations system of protection, the Sub-Commission was uniquely situated to play a catalysing role in the protection of women's human rights throughout the world.

CONSIDERATION OF DRAFT RESOLUTIONS AND DECISIONS UNDER AGENDA ITEM 6 (continued)

Draft decision on monitoring the transition to peace in Guatemala (HR/NONE/96/74)

24. The CHAIRMAN read out the draft, which was the result of negotiations between the Government of Guatemala and the representatives of the Unidad Revolucionaria Nacional Guatemalteca (URNG) and in the drafting of which three members of the Sub-Commission had participated. In that draft decision, the Sub-Commission authorized its Chairman to issue a statement on the situation of human rights and the progress of the peace process in Guatemala and urged the Government of Guatemala to intensify its efforts to combat human rights violations, to continue to combat impunity and to prevent the proclamation of amnesties granting such impunities, to encourage the interested parties to implement the agreements at which they had arrived during the negotiations in question, and to decide to continue to follow the development of events in Guatemala. If there was no objection, he would take it that the Sub-Commission wished to adopt the draft decision without a vote.

25. It was so decided.

26. The CHAIRMAN then read out the declaration in question, which would appear in the report of the forty-eighth session of the Sub-Commission and was the outcome of discussion between the Government of Guatemala and the Guatemalan opposition, in which Mr. Alfonso Martínez, Mr. Diaz Uribe and Mr. Joinet had participated.

27. Mr. AGUILERA (Observer for Guatemala) said that the Guatemalan people had been through a difficult period, during which it had suffered from the effects of authoritarianism, the consequences of internal armed conflict, and human rights violations. Throughout that period, the international community had supported the Guatemalans' struggle for democracy and peace; one example of that support was the Sub-Commission's monitoring of the situation of human rights in Guatemala.

28. The negotiation process, the goal of which was to put an end to the armed conflict, had reached its final phase. Both the Government and the Unidad Revolucionaria Nacional Guatemalteca had the political will to build peace, and nothing could prevent them from doing so. The decision adopted by the Sub-Commission and the declaration made by its Chairman reflected the mutual understanding that characterized the negotiations between the two parties, and it was important to stress the contribution made by Mr. Diaz Uribe, Mr. Alfonso Martínez and Mr. Joinet, who had spared no effort to facilitate consensus. The time had come for peace in Guatemala. However, it must not be forgotten that peace and democracy would be possible only if they were based on respect for the rule of law and human rights and the supremacy of the civilian authorities, goals which the Sub-Commission had always upheld and which were becoming a reality in Guatemala.

29. Ms. MEYER (Unidad Revolucionaria Nacional Guatemalteca - URNG) thanked the Sub-Commission for the honesty and transparency that it had demonstrated throughout the years during which she had expressed her concern regarding the situation of human rights in Guatemala. URNG had constantly communicated to the international authorities its willingness to encourage the process of negotiation and dialogue, which had made progress thanks to the cooperation of the United Nations and the presence of the United Nations Mission for the Verification of Human Rights in Guatemala (MINUGUA). The terror that had paralysed the most vulnerable segments of the population was dissipating little by little, as could be seen from the organization and massive participation of the people of the country, who had previously been excluded from all political, economic and cultural decision-making. In particular, the signing of the Agreement on Identity and Rights of Indigenous People in March 1995 had made it possible to end the marginalization of, and discrimination against, the Mayan people.

30. URNG welcomed the Guatemalan Government's willingness to speed up the negotiation process. The fact that the Government's representatives in Geneva had stated that they were in favour of the preparation of a consensus decision and declaration proved that the Government had the political will to arrive at a negotiated solution.

31. Finally, she noted that Guatemalan civil society was struggling against impunity and was opposed to the amnesty measures, which only encouraged the impunity of those responsible for human rights violations. URNG shared that point of view and therefore hoped that the various Guatemalan State bodies, in accordance with the wishes of the Sub-Commission, would refrain from advocating amnesty.

32. The CHAIRMAN said it was safe to say that the Sub-Commission was experiencing a historic moment since it had contributed to restoring dialogue between the parties to an internal conflict. It would do well to follow its own example in other situations.

33. Mr. CHERNICHENKO said he thought the Sub-Commission had strayed from the substantive question and had clearly demonstrated how its work could duplicate that of the Commission. It was odd for the Sub-Commission to have dealings with the representatives of both a Government and the opposition to that Government. Did that mean that, henceforth, the representatives of both Governments and opposition groups should be systematically heard during consideration of the situation of human rights in a given country? He hoped that that procedure would not constitute a precedent.

34. Mr. JOINET said that, in his opinion, it would be better to speak, not of duplication, but of an enormous contribution to the peace process. He recognized that the practice of hearing the representatives of both the Government in question and the opposition should not become systematic but, in the case in point, URNG had spoken with the consent of the Guatemalan Government.

35. Ms. WARZAZI asked if Mr. Chernichenko realized that the situation constituted an exceptional case. However, if all situations of that type could be solved in the same way, she would be the first to approve the procedure.

36. Ms. GWANMESIA suggested that the Sub-Commission should set aside the question of procedure and concentrate on the fact that it had contributed to the progress of the peace process in Guatemala.

37. Mr. ALFONSO MARTINEZ said that, although he considered procedure to be important, the results obtained in the case in point had demonstrated the usefulness of the Sub-Commission's flexible approach to its work. If a precedent had been set, it was an excellent one of which the Sub-Commission should be proud. Perhaps that exception would one day become the rule.

38. Mr. GUISSE said that, while he was pleased by the results obtained in the case of the situation in Guatemala, he nevertheless shared Mr. Chernichenko's point of view. The Sub-Commission should not become a negotiating forum or allow itself to become a centre for such negotiations. The precedent set was a dangerous one and, by acting in that way, the Sub-Commission was encroaching on the mandate of other bodies.

39. Ms. PALLEY associated herself with the remarks made by Mr. Guissé and Mr. Chernichenko and said that, in her opinion, it was dangerous for the Sub-Commission to regard itself as a diplomatic body. She was pleased by the success of the negotiations concerning the situation in Guatemala but hoped that that procedure would not constitute a precedent.

40. Mr. El-HAJJE pointed out that three members of the Sub-Commission had acted as mediators; he did not see how they could be criticized, since their intervention had made possible a solution that was a positive step on the road to peace.

41. The CHAIRMAN said he was pleased by the results obtained and hoped that other situations could be settled in the same way.

Draft resolution E/CN.4/Sub.2/1996/L.3 (Situation in the Palestinian and other Arab territories occupied by Israel) (continued)

42. Mr. EL-HAJJE announced that the members of the Sub-Commission had agreed to replace the eighth preambular paragraph of the draft by a new operative paragraph which would read:

"Reiterates its call upon the Palestinian Authority:

(a) To comply strictly with all current international norms in the field of human rights;

(b) To provide greater access to its prisons and interrogators through international organizations;

(c) To continue its cooperation with the advisory services offered by the Centre for Human Rights with a view to promoting human rights institutions."

The new paragraph would be paragraph 10, and the former paragraph 10 would become paragraph 11.

43. Mr. WEISSBRODT thanked his colleagues for their cooperation but said he thought the draft resolution under consideration was still unbalanced and failed to reflect the true situation in the region. For example, paragraph 2 referred to the closure of Palestinian territories but made no mention of the terrorist acts that had led to that closure. The paragraph also failed to mention the serious human rights violations that continued to exist in the territories controlled by the Palestinian Authority.

44. Mr. GUISSE said he did not understand how Mr. Weissbrodt could criticize, at the current stage, a draft resolution which he himself had amended. Nothing would have prevented him from making further suggestions aimed at producing a more balanced text.

45. Mr. ALFONSO MARTINEZ noted that the sponsors of the draft resolution, in a spirit of compromise, had attempted to take into account the suggestions made by Mr. Weissbrodt and that the text under consideration could not be called unbalanced. Although he, himself, would certainly not request a vote, it seemed that that solution might be called for.

46. Mr. KHALIL congratulated the sponsors of the draft resolution, who, in a spirit of compromise, had made considerable concessions to Mr. Weissbrodt. His own idea of balance was not the same as that of Mr. Weissbrodt.

47. Mr. El-HAJJE said that the sponsors of the draft resolution had tried to reflect current realities in the field. The amendments suggested by Mr. Weissbrodt had been accepted even though they did not concern the occupied

territories. The subject of the draft resolution was the occupied territories, not the Palestinian Authority. He thought it should be possible to adopt the text in its current form by consensus.

48. The CHAIRMAN gave the floor to the observer for Israel so that the latter could make a statement before the Sub-Commission took a decision on the draft resolution.

49. Mr. WALDEN (Observer for Israel) said he would prefer not to make a statement until after the Sub-Commission's decision.

50. After a discussion in which the CHAIRMAN, Ms. PALLEY, Mr. YIMER and Mr. ALFONSO MARTINEZ took part, the observer for Israel was authorized to defer his statement.

51. Mr. KHOURY (Observer for Syria) gave details concerning the situation of human rights in the occupied territories. Foreign occupation, in itself, was already a flagrant human rights violation. Continuation of the settlement process was also a violation of article 49 of the Fourth Geneva Convention and article 85 of the Protocol I additional thereto. The International Law Commission, at its forty-eighth session, had formulated a Draft Code of Crimes against the Peace and Security of Mankind (A/CN.4/L.532). Article 17 of that Draft Code stated that deliberately inflicting on a group conditions of life calculated to bring about its physical destruction in whole or in part constituted genocide. Article 20 of the Draft Code stated that destruction and appropriation of property and collective punishments constituted war crimes. Those provisions applied to the Israeli actions in the occupied territories.

52. On 23 June 1996, in the final communiqué of the Cairo Summit, the Arab States had expressed the desire to pursue the peace process. Adherence to the norms of international law and implementation of United Nations resolutions were indispensable to the success of that process, and the parties concerned must respect all their obligations. Any draft resolution on the Middle East peace process must, therefore, condemn the acquisition of territory by force, call for the implementation of the relevant United Nations resolutions, reaffirm the principle of "land for peace", not return to the pre-Madrid positions, and call for an end to the Israeli practices that were hindering the peace process, for example, the establishment of settlements and the imposition of jurisdiction on the occupied Syrian Golan. He had no doubt that the Sub-Commission would adopt a position on that question in accordance with its mandate.

53. At the request of Mr. Weissbrodt, a vote was taken on draft resolution E/CN.4/Sub.2/1996/L.3, as amended.

54. At the invitation of the Chairman, Ms. M'Bonu and Ms. Warzazi acted as tellers.

55. A vote was taken by secret ballot.

56. Draft resolution E/CN.4/Sub.2/1996/L.3, as amended, was adopted by 15 votes to 4, with 5 abstentions.

57. Mr. WALDEN (Observer for Israel) said that if he had expected to change the results of the vote in any way by speaking before it was taken, he would not have hesitated to do so. Since the beginning of the session, it had seemed to him that the great majority of the experts desired a fundamental reform of the Sub-Commission's methods of work. The draft resolution that had just been adopted showed that nothing had changed in practice. How could the Sub-Commission boast of its results in adopting a draft resolution virtually identical to those that had been adopted in previous years and to similar resolutions adopted by the General Assembly and the Commission on Human Rights? It had merely allowed the observer for Syria to take advantage of it in order to indulge in ritual verbal attacks. The Sub-Commission did itself no service by allowing people who had no concern for its reputation to use it as a forum for propaganda. Devoting time to resolutions such as the one in question hindered the substantive work that it might be doing and that the international community had a right to expect of it.

58. Mr. ALFONSO MARTINEZ, speaking on a point of order, said he was prepared to listen to any type of argument, but that the basic duty of any observer was to follow certain rules and, in particular, to respect the experts' integrity. It was unacceptable for an observer to state that the experts did not care about the Sub-Commission's reputation.

59. Ms. PALLEY suggested that Mr. Alfonso Martínez might have misunderstood the words of the observer for Israel if he had listened to them in the Spanish interpretation. The observer for Israel had not attacked the Sub-Commission but had only said that it risked being exploited.

60. Mr. ALFONSO MARTINEZ explained that he had listened to the observer for Israel in the original. The observer for Israel had, indeed, said that the Sub-Commission's members did not care at all about its reputation.

61. Mr. ALI KHAN said that, in his opinion, observers should not express judgements and opinions regarding the functioning of the Sub-Commission. He hoped that the observer for Israel would exercise more discretion in the future.

62. Mr. WALDEN (Observer for Israel) said Ms. Palley had correctly understood his statement. He repeated that the Sub-Commission did itself a disservice by allowing those who did not care at all about its reputation to exploit it for propaganda purposes. Moreover, he thought that observers for Governments had a right to comment if they thought the Sub-Commission was not working in an appropriate manner, particularly with regard to draft resolutions that concerned them. He also expressed surprise that no one had said anything about the accusations of genocide made against Israel by the observer for Syria. Those accusations were far more serious than his own slight criticism of the Sub-Commission.

63. Ms. WARZAZI said that if the observer for Israel had any objection to the statements of the observer for Syria, he could exercise his right of reply. Furthermore, she thought it was insulting to imply that the experts were being herded like sheep.

64. Mr. JOINET said he had no objection to participants in a session criticizing the Sub-Commission. However, no exceptions could be made with regard to two principles: everything must always be said in good faith and in courteous terms, and no ad hominem attacks must ever be made.

65. Mr. ALFONSO MARTINEZ said he had, indeed, understood the words of the observer for Israel on the first occasion. In particular, the observer for Israel had complained that the text adopted was identical to that of previous years. It was to be hoped that progress in the situation in the occupied territories would make it possible to adopt a very different resolution the following year.

66. Ms. GWANMESIA repeated her statement of the previous day to the effect that participants who were not members of the Sub-Commission must act in good faith and communicate only correct information to the Sub-Commission. The Sub-Commission could not work effectively without government observers and non-governmental organizations. Her pleasure at the decision taken with regard to Guatemala had been spoilt by the statement made by the observer for Israel. She requested participants not to discourage the members of the Sub-Commission by their remarks.

The meeting rose at 1.05 p.m.